UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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| In re<br><br>Jacob Fetman,<br><br>Debtor. | Chapter 7<br><br>Case no. 15-43716 |
| Aish Hatorah New York, Inc.,<br><br>Plaintiff,<br>-against-<br><br>Robert Musso, as trustee, Jacob Fetman, Merkaz, the Center, and Ober Kaler,<br><br>Defendant. | Adv. Proc. No. ________________ |

## COMPLAINT

Aish Hatorah New York, Inc. ("Aish" or "Aish New York") as and for its complaint under Fed. R. Bankr. P. 7001 et seq. to determine the validity, priority, or extent of an interest in property of the estate of Jacob Fetman (the "Debtor"), respectfully represents as follows.

## JURISDICTION AND VENUE

1. By this complaint, Plaintiff seeks (a) to recover money or property, (b) to determine the validity, priority, or extent of an interest in property, (c) to obtain equitable relief, and (d) to obtain a declaratory judgment.

2. The Court has jurisdiction over this adversary proceeding under 28 U.S.C. § 1334 and Fed. R. Bankr. P. 7001 et seq.

3. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(1) because it seeks a determination whether certain funds are property of the estate and the entitlement thereto and therefore seeks a determination that affects the adjustment of the debtor-creditor relationship under 28 U.S.C. § 157(b)(2)(O) and is within this Court's exclusive jurisdiction under 28 U.S.C. § 1334(e).

4. This Court may enter a final order and judgment in this matter under 28 U.S.C. § 157(b)(3).

5. Venue is proper in this Court under 28 U.S.C. § I409(a).

## PARTIES

6. Aish is a New York not for profit charitable organization.

7. Robert Musso is the Chapter 7 Trustee of the Chapter 7 estate of Jacob Fetman is the Debtor.

8. Jacob Fetman is the debtor ("Debtor").

9. Merkaz, the Center is a New York not for profit charitable organization.

10. Ober Kaler is a law firm having an address at 100 Light Street, Baltimore, Maryland, 21202.

## FACTS

11. As the Supreme Court of Kings County found in its July 6, 2015 decision ("7/16/15 Decision," Exhibit A), for seventeen years, Jacob Fetman was the chief financial officer of Aish New York, a non-profit corporation. 7/16/15 Decision, p.1

12. In October 2013, the Debtor and Aish New York agreed to a Beis Din arbitration with Rabbi Dovid Cohen ("Arbitrator") regarding the Debtor's unauthorized loans from Aish. 7/16/15 Decision, p.1

13. The arbitration was conducted in four sessions between October 13, 2013 and December 9, 2013. 7/16/15 Decision, p.1

14. At the first session of the arbitration, held October 13, 2013, the Debtor signed an agreement to arbitrate the dispute before the Arbitrator. 7/16/15 Decision, p.1

15. On October 22, 2013, prior to proceeding with the second session, the parties signed a second agreement to arbitrate Aish's allegations that the Debtor stole Aish's funds and controlled secret bank accounts. 7/16/15 Decision, p.1-2

16. At the completion of the second session, the Arbitrator issued a directive requiring the Debtor and his wife to produce their financial records. The Debtor provided some of these materials at the third session, which took place on October 30,2013, but as the records provided were incomplete, the Arbitrator issued a second, more extensive directive requiring the production of additional financial records, unrestricted access to e-mail accounts, and directing the Debtor "to prove that all funds deposited into the accounts belong to him; all amounts that Mr. Fetrnan is unable to prove ownership of must be paid promptly by Mr. Fetman to Aish." The directive further required the Debtor to provide funds to be held in escrow pending completion of the proceedings and directed that no assets be transferred without permission of the Arbitrator. The Debtor thereafter complied with the latter directives by providing $500,000 to the Ober Kaler law firm to be held in escrow, and gave the Arbitrator a power of attorney over the Debtor's financial assets and over certain real property. 7/16/15 Decision, p. 2.

17. The directive that the Debtor to provide funds to be held in escrow is contained in an interim decision by Rabbit Cohen dated November 1, 2013 ("Interim Decision," Exhibit C). As stated in the Interim Decision the purpose of the escrow is ". . . so that any such funds can be available for repayment as the amounts misappropriated are determined."

18. Fetman placed $503,439 (the "Escrow Funds") in escrow with the Escrow Agent. (Exhibit D). See, Objection, Bankruptcy Court Docket no. 9, para. 6 (Exhibit E); 7/16/15 Decision, p. 2..

19. On December 17, 2013, the Beis Din granted Aish a $20,000,000 arbitration award (Exhibit A) which was confirmed by the Supreme Court (Exhibit F).

20. In the meantime, the Brooklyn District Attorney indicted Fetman for grand larceny. Fetman entered into a restitution agreement to release approximately $140,000 of the Escrow Funds to Aish as restitution.

21. The Bankruptcy Court subsequently order the release of the restitution amount.

22. The Escrow Agent is joined in this action because it holds the Escrow Funds and should be directed by this Court to disperse such funds consistent with this Court's rulings on the entitlement to such funds.

23. Merkaz the Center is joined in this action because it may assert an interest in the Escrow Funds.

**DECLARATION REGARDING AISH'S INTEREST IN THE ESCROW FUNDS**

24. Aish New York incorporates by reference and re-alleges the allegations in paragraphs one through twenty-three.

25. Under the Interim Decision, Aish is entitled to the Escrow Funds upon a determination of the amounts due.

26. The Supreme Court confirmed the arbitration award including the arbitrator's finding that the Debtor stole $20,000,000 from Aish.

27. Under the Escrow Agreement, applicable New York law, and the Bankruptcy Code, the Debtor has no legal or equitable rights in the Escrow Funds.

WHEREFORE, Aish respectfully requests that the Court enter a judgment: (a) determining that the Debtor has no legal or equitable rights in the Escrow Funds; (b) determining that the Escrow Funds are not property of the Debtor's estate within the meaning of § 541 of the Bankruptcy Code; and (c) directing the Escrow Agent to immediately disburse the Escrow Funds to Aish, and that the Court grant such other relief as may be just and proper.

Dated: New York, New York
March 14, 2016

**BACKENROTH FRANKEL & KRINSKY, LLP**
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
------------------------------------------------------x

In re

Jacob Fetman,

Debtor.

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Aish Hatorah New York, Inc.,

Plaintiff

-against-

Jacob Fetman,

Defendant.

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Chapter 7

Case no. 15-43716

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**VERIFICATION**

Under penalty of perjury, the undersigned hereby verifies and certifies that he is an officer of Aish Hatorah New York, Inc. and is authorized to make this verification, that he has read the annexed pleading, and that he believes the facts stated therein to be true, to the best of his knowledge and belief.

Dated: New York, New York
February 16, 2016

s/_Yitz Greenman________________